

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
GREENEVILLE**

**UNITED STATES OF AMERICA**

**v.**

**EMORY Q. JACKSON**

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)

**Case No. 2:20-CR-65  
JUDGE GREER**

**UNITED STATES RESPONSE TO DEFENDANT’S MOTION TO EXCLUDE  
EVIDENCE OF PRIOR AND/OR OTHER ACTS**

The United States is still in the process of reviewing potential Rule 404(b) and/or 609 evidence and would respectfully request the Court to allow the United States to disclose to the Defendant the nature of any known evidence it intends to present at trial under Fed. R. Evid. 404(b) within a reasonable time prior to the commencement of its case in chief. Under Rule 404(b), the Government is required to give “reasonable notice” of its intention to introduce this evidence. There is no per se rule of what constitutes “reasonable notice” under Rule 404(b). *See United States v. Mercado*, S1 02 Cr. 675 (WHP), 2003 WL 21756084, at \*6 (S.D.N.Y. July 30, 2003) (“Rule 404(b) does not set a minimum time for the Government to act.”). The Government respectfully submits that it will provide the Defendant with reasonable notice of its intent to introduce evidence under Rule 404(b) and/or 609 prior to trial.

The United States may offer evidence of acts that are (1) an uncharged offense which arose out of the same transaction or series of transactions as the charged offense; (2) necessary to complete the story of the crime; or (3) inextricably intertwine with the evidence regarding the charged offense. Such acts do not fall under Rule 404(b). *See United States v. Brewer*, 1 F.3d

1430, 1436 (4th Cir. 1993). Moreover, some of the bad acts listed by the Defendant clearly fall within the permitted uses of proving motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake, or lack of accident, or are permitted under Rule 607 and 608.

### **CONCLUSION**

For the foregoing reasons, the United States respectfully submits that Defendant's Motion to Exclude Evidence of Prior and/or Other Acts be denied.

Respectfully submitted this the 6<sup>th</sup> day of October, 2020.

J. DOUGLAS OVERBEY  
United States Attorney

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 6<sup>th</sup> day of October, 2020, a true and accurate copy of the foregoing Response was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular United States mail. Parties may access this filing through the Court's electronic filing system.

s/ **KATERI L. DAHL**

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